

Department of the Air Force, DoD

§ 842.22

Subpart C—Claims Under Article 139, Uniform Code of Military Justice (UCMJ) (10 U.S.C. 939)

§ 842.15 Scope of this subpart.

It sets out the Air Force procedures for processing Article 139, UCMJ claims.

§ 842.16 Definitions.

(a) *Appointing commander.* The commander exercising special court-martial jurisdiction over the offender is the appointing commander.

(b) *Board of officers.* One to three commissioned officers appointed to investigate a complaint of willful property damage or wrongful taking by Air Force personnel comprise a board of officers.

(c) *Property.* Property is an item that is owned or possessed by an individual or business. Property includes a tangible item such as clothing, household furnishings, motor vehicles, real property, and currency. The term does not include intangible property or items having no independent monetary worth. Items that should not be considered as property for the purpose of this part include a stock, bond, check, check book, credit card, telephone service and cable television services.

(d) *Willful damage.* Damage or destruction caused intentionally, knowingly, and purposely, without justifiable excuse is willful damage.

(e) *Wrongful taking.* Any unauthorized taking or withholding of property with intent to deprive the owner or person in lawful possession either temporarily or permanently.

§ 842.17 Claims payable.

Claims for property willfully damaged or wrongfully taken by Air Force military personnel as a result of riotous, violent, or disorderly conduct. If a claim is payable under this part and also under another part, it may be paid under this part if authorized by HQ USAF/JACC.

§ 842.18 Claims not payable.

Claims that are not payable are:

(a) Claims resulting from simple negligence.

(b) Claims for personal injury or death.

(c) Claims resulting from acts or omissions of Air Force military personnel while acting within the scope of their duty.

(d) Claims of subrogees.

(e) Claims arising from private indebtedness.

(f) Claims for reimbursement for bad checks.

§ 842.19 Limiting provisions.

(a) Submit a complaint within 90 days of the date of the incident unless the appointing commander finds good cause for the delay. Command determination of the absence of good cause is final.

(b) Assessment of damages in excess of \$5,000 against an offender's pay for a single incident requires HQ USAF/JACC approval.

(c) Payment of indirect, remote, or consequential damages is not authorized.

§ 842.20 Filing a claim.

Claimant complains (orally or in writing) to the commander of a military organization or unit of the alleged offending member or members or to the commander of the nearest military installation. However, the complainant need not request a sum certain in writing, before settlement is made.

Subpart D—Personnel Claims (31 U.S.C. 3701, 3721)

§ 842.21 Scope of this subpart.

It explains how to settle and pay claims under the Military Personnel and Civilian Employees' Claims Act for incident to service loss and damage of personal property. These claims are paid according to this subpart even when another subpart may also apply.

§ 842.22 Definitions.

(a) *Act of God.* An act occasioned exclusively by violence of nature, such as flood, earthquake, tornado, typhoon or hurricane, that is unanticipated and over which no one has any control.

(b) *Military installation.* A facility used to serve a military purpose and used or controlled by the Air Force or

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any other Department of Defense (DOD) element.

(c) *Other authorized places:* (1) Any place authorized, or apparently authorized by the government to receive, hold, or store personal property, such as offices, warehouses, baggage holding areas, hospitals.

(2) Any area on a military installation designated for parking or storing vehicles.

(3) A recreation area or any real estate the Air Force or any other DOD element uses or controls.

(d) *Personal property.* Tangible property an individual owns, including but not limited to household goods, unaccompanied baggage, privately owned vehicles (POV), and mobile homes.

(e) *Quarters:* (1) Housing the government assigns or otherwise provides in kind to the claimant, including substandard housing and trailers, when the claimant pays the government a fixed rental while drawing basic allowance for quarters (BAQ).

(2) Privately owned mobile or manufactured homes parked on base in spaces the government provides.

(3) Transient housing accommodations, wherever located, such as, hotels, motels, guest houses, transient dormitories, or other lodgings the government furnishes or contracts for.

(4) Housing accommodations outside the United States which the claimant occupies according to local policies and procedures which were not assigned by or otherwise provided for by the U.S. Government. Quarters do not include housing occupied by foreign indigenous employees.

(5) Garages, carports, driveways, and parking lots assigned to quarters the government provides for the occupants of the quarters to use.

(6) Street parking:

(i) At quarters.

(ii) In the immediate vicinity of quarters.

(iii) Reserved parking assigned to offbase housing accommodations overseas.

(7) The area immediately adjacent to quarters when used for storage of items not commonly stored in living areas, for example, boats, motorcycles, motorbikes, bicycles, lawn mowers, garden equipment, and outdoor furniture.

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(f) *Reconsideration.* The original or a higher settlement authority's review of a prior settlement action.

(g) *Small claim.* A claim for \$1,000 or less.

(h) *Unusual Occurrence.* Something not expected to happen in the normal course of events.

§ 842.23 Delegations of authority.

(a) *Settlement authority:* (1) These individuals have been delegated the authority to settle claims payable for \$25,000 or less if the claim arose before 31 October 1988, or \$40,000 or less if the claim arose on or after 31 October 1988, and to deny claims in any amount:

(i) The Judge Advocate General (TJAG).

(ii) The Deputy Judge Advocate General.

(iii) The Director of Civil Law.

(iv) The Chief, Deputy Chief, and Branch Chiefs, Claims and Tort Litigation Staff.

(2) The SJAs of HQ USAFE, HQ PACAF, and 9 AF (for claims arising out of HQ CENTCOM) have delegated authority to settle claims payable, and to deny claims filed for \$25,000 or less.

(3) The SJAs of single base GCMs and the SJAs of GCMs within PACAF and USAFE have delegated authority to settle claims payable, and to deny claims filed for \$15,000 or less.

(4) SJAs of each Air Force Base, station, and fixed installation have been delegated the authority to settle claims payable, and deny claims filed for \$10,000 or less.

(b) *Redelegation of authority.* A settlement authority may redelegate the authority, in writing, to a subordinate judge advocate or civilian attorney.

(c) *Reconsideration authority.* A settlement authority has the same authority specified in a above. However, with the exception of TJAG, a settlement authority may not deny a claim on reconsideration that it, or its delegate, had previously denied.

(d) *Authority to reduce, withdraw, and restore settlement authority.* Any superior settlement authority may reduce, withdraw, or restore delegated authority.

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